

Notice of Allowability

Application No.

09/970,389

Applicant(s)

MERKLEY ET AL.

Examiner

Mark Halpern

Art Unit

1731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment received 12/28/2006.
2. ☒ The allowed claim(s) is/are 25-48.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| <ol style="list-style-type: none"> 1. <input type="checkbox"/> Notice of References Cited (PTO-892) 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | <ol style="list-style-type: none"> 5. <input type="checkbox"/> Notice of Informal Patent Application 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>20070302</u>. 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance 9. <input type="checkbox"/> Other _____ |
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Application/Control Number: 09/970,389

Page 2

Art Unit: 1731

1) An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Ms. Monique Vander Molen on 3/2/2007.

The application has been amended as follows:

Claim 25 is amended and recites:

- 25. (currently amended) A fiber cement composite building material incorporating cellulose fibers, wherein at least a portion of the fibers are pretreated with an elevated temperature washing process to reduce COD content to less than 4.5 kg/ton, wherein the elevated temperature is between about 65 degrees Centigrade to about 120 degrees Centigrade, wherein the reduced COD fibers comprise about 2% - 20% of the formulation by weight and wherein the reduced COD cellulose fibers add strength reinforcement to the composite building material. -.

Claim 33 is amended and recites:

- 33. (currently amended) A material formulation used to form a composite building material, comprising:

a cementitious binder;

an aggregate;

one or more density modifiers;

one or more additives; and

cellulose fibers, wherein at least a portion of the fibers are pretreated with an elevated temperature washing process to reduce COD content to less than 4.5 kg/ton of oven dried pulp, wherein the elevated temperature is between about 65 degrees Centigrade to about 120 degrees Centigrade and wherein the reduced COD cellulose fibers comprise about 2% - 20% of the formulation by weight. -.


- 2) The following is an examiner's statement of reasons for allowance:

The primary reason for allowance is that the cited prior art does not show a cellulose fiber cement building materials composite where the fibers are of COD of value claimed and the fibers of claimed COD comprise percentage of the composite by weight as claimed (claims 25, 33).

COD stands for Chemical Oxygen Demand.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

- 3) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Halpern whose telephone number is 571-272-1190.


Mark Halpern
Primary Examiner
Art Unit 1731